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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,808

05/12/2006

Andrew Montgomery

MOAE0101PUSA

7006

22045

7590

05/12/2009

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EXAMINER

SKURDAL, COREY NELSON

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

05/12/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,808	Applicant(s) MONTGOMERY, ANDREW	
	Examiner COREY N. SKURDAL	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell (US 5,125,547) in view of Thompson (US 6,325,262).

Russell discloses a sack/backpack 150 for compressing compressible material contained therein, the sack including: a pliable body portion for receiving the material, the body portion having a lower base portion 154, a wall (at lead lines 154 and 152) and an upper opening 164 for introducing the material into the sack and removing it therefrom; a cover 156 exterior to the body portion and fixed thereto proximate the opening and having a cover fastener 164 for releasably fastening to the body portion proximate the base whereby the cover covers the opening, a plurality of compression straps 142 and connectors 138/140 exterior to the body portion and attached thereto, the cover fastener and compression straps being operable to compress material in the body portion; and a pair of shoulder straps 176/178, separate from the compression straps, connected to the wall. Russell does not disclose a porous pliable panel member that creates a sleeve. However, Thompson teaches that it is well known to provide a backpack 100 having a wall means 110 and shoulder straps 120 with a porous pliable

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panel member 130 between the shoulder straps and attached to the wall means to form a sleeve 131 on the back of the back pack, whereby the sleeve can also be used to store a stiffening member 150. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the backpack of Russell with a wall between the shoulder straps having a breathable barrier/sleeve as taught by Thompson in order to make the sack more comfortable when carried as a backpack by the wearer. In doing so, a sleeve would be defined which could be used to stow a stiffening member, a hydration bladder, or the shoulder straps when not in use.

3. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell in view of Thompson, as applied to claim 1 above, and further in view of Moore (US 6,089,752). Modified Russell discloses the invention substantially as claimed, including a cap-like cover 156 and the porous/pliable panel member taught by Thompson, but does not have a drawstring for the opening. However, Moore teaches that it is well known to provide a compression pack with a drawstring 30 around the main opening. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the opening of Russell with a drawstring in order to provide additional means for closing the opening of the pack.

Response to Arguments

4. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection. Russell clearly teaches shoulder straps which are separate from the compression straps. Furthermore the combination of Russell and Thompson discloses a panel member forming a sleeve which is capable of

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holding a stiffening member, shoulder straps, or a hydration bladder. The claims only recite functional language regarding the shoulder straps being adapted to be held within the sleeve, and no additional structure is recited which prevents the sleeve taught by Thompson from being used to store shoulder straps or a hydration bladder.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY N. SKURDAL whose telephone number is (571)272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. N. S./
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782